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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/715,211	Applicant(s) APPELMAN ET AL.	
	Examiner John B. Walsh	Art Unit 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-21,38-44,60-63,65-69,71-83,86-88 and 99-115 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3,5-21,38-44,60-63,65-69,71-83,86-88 and 99-115 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 109-115 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 109-115 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of *In Re Bilski* 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method including steps of identifying files, identifying traits and sending are broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent. For example the identifying files can be a person reviewing a paper file and the online traits can be written down on the paper file. The sending an identification can be done verbally or written on a paper file and given to another person. The claim does not explicitly or inherently require the use of a particular machine nor is one identified within the claim.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 5, 6, 8-12, 14, 18-20, 38, 41, 42, 60-62, 65-68, 72, 73, 77, 81-83, 86, 108-112, 114 and 115 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,425,012 to Trovato et al. in view of U.S. Patent No. 7,035,926 to Cohen et al.

Trovato et al. '012 disclose:

As concerns claims 60, 77, 81, 86, 108 and 109 determining the online context/files requested of a user (fig. 4, 420-context and user profile; col. 2, lines 5-15); determining an online context/files requested of other users (fig. 4, 420-context and user profile); storing trait information for the user (fig. 4, 420-context and user profile; col. 3, lines 50-60); storing trait information for the other users (fig. 4, 420-context and user profile; col. 3, lines 50-60); comparing the online context of the user to the online context of the other users (fig. 4, 440, 450) and the stored trait information for the other users (fig. 4, 440, 450; col. 4, lines 10-20); based on the comparison, identifying a group of the other users sharing the online context of the user and at least one trait/relationship with the user (fig. 4, 450, 460, 470), the number of users in the group of the other users being less than the number of the other users; and causing the presentation, to the user, of an indicator (user interface-displays chat room group) that identifies at least one user as a member of the group of the other users sharing the online context of the user and the at least one trait with the user.

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As concerns claims 8 and 61, an age of the users (col. 3, line 35).

As concerns claims 9 and 62, a demographic (col. 2, line 9-locale; col. 3, line 36-gender).

As concerns claims 10, 68 and 82, an expertise rating (col. 3, line 36-education level).

As concerns claims 11 and 66, an interest (col. 2, line 10).

As concerns claims 12 and 14, a participation status (col. 3, Table 1- Role).

As concerns claims 66, 67 and 114, the trait information comprises an interest (col. 2, line 10).

As concerns claim 18, storing other information (col. 3, lines 34-38).

As concerns claim 19, identification of a user (col. 6, lines 15-20).

As concerns claims 20 and 83, online identifier (col. 6, lines 15-20).

As concerns claims 38, enabling the user to communicate with the other users (col. 3, lines 1-10).

As concerns claim 41, a voice communication (col. 3, line 4-audio).

As concerns claim 42, a mobile device (col. 6, lines 26-30; telephone, laptop, palmtop).

As concerns claims 65, trait information (col. 2, line 10).

As concerns claims 72, 73 and 115, a location (col. 2, line 9-locale).

Trovato et al. '012 does not disclose wherein the online context being one or more of a web site currently accessed by the user, an Internet domain currently accessed by the user, a newsgroup currently accessed by the user, or a URL currently accessed by the user. Trovato et al. '012 does teach displaying the current TV or radio, or media (col. 2, lines 5-15; col. 3, lines 25-38; col. 6, lines 35-40). This falls within the scope of applicant's invention of an online context as disclosed at page 7, lines 25-30 of applicant's specification wherein the online context can include a television channel.

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Cohen et al. '926 teach determining an online context being a website currently accessed (col. 1, lines 25-30-people awareness, other users currently online, document awareness-viewing same online place; col. 1, lines 35-40-keep track of users at particular webpage).

As concerns claims 110 and 112, web pages and sites (Cohen: col. 1, lines 25-30-people awareness, other users currently online, document awareness-viewing same online place; col. 1, lines 35-40-keep track of users at particular webpage).

As concerns claim 2, the online context comprises an Internet domain (webpage inherently has a domain).

As concerns claims 5 and 111, the online context comprises a URL (webpage inherently has a URL).

As concerns claim 6, the online context on which a users are presently focused (Cohen: col. 1, lines 25-30-people awareness, other users currently online, document awareness-viewing same online place; col. 1, lines 35-40-keep track of users at particular webpage).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Trovato et al. '012 with an online context being a website currently accessed, as taught by Cohen et al. '926, in order to enable users to communicate and interact about online web-based content they are currently visiting. Such a modification is a combination of known elements.

5. Claims 99, 100 and 102-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,425,012 to Trovato et al. in view of U.S. Patent No. 7,035,926 to Cohen et al. and further in view of U.S. Patent No. 7,401,098 to Baker.

Trovato et al. '012 disclose:

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As concerns claim 99 determining the online context of a user (fig. 4, 420-context and user profile; col. 2, lines 5-15); determining an online context of other users (fig. 4, 420-context and user profile); storing trait information for the user (fig. 4, 420-context and user profile; col. 3, lines 50-60); storing trait information for the other users (fig. 4, 420-context and user profile; col. 3, lines 50-60); comparing the online context of the user to the online context of the other users (fig. 4, 440, 450) and the stored trait information for the other users (fig. 4, 440, 450; col. 4, lines 10-20); based on the comparison, identifying a group of the other users sharing the online context of the user and at least one trait/relationship with the user (fig. 4, 450, 460, 470), the number of users in the group of the other users being less than the number of the other users; and causing the presentation, to the user, of an indicator (user interface-displays chat room group) that identifies at least one user as a member of the group of the other users sharing the online context of the user and the at least one trait with the user.

Trovato et al. '012 does not explicitly disclose wherein the online context being one or more of a web site currently accessed by the user, an Internet domain currently accessed by the user, a newsgroup currently accessed by the user, or a URL currently accessed by the user.

Trovato et al. '012 does teach displaying the current TV or radio, or media (col. 2, lines 5-15; col. 3, lines 25-38; col. 6, lines 35-40). This falls within the scope of applicant's invention of an online context as disclosed at page 7, lines 25-30 of applicant's specification wherein the online context can include a television channel.

Cohen et al. '926 teach determining an online context being a website currently accessed (col. 1, lines 25-30-people awareness, other users currently online, document awareness-viewing same online place; col. 1, lines 35-40-keep track of users at particular webpage).

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As concerns claim 100, the online context comprises an Internet domain (webpage inherently has a domain).

As concerns claim 102, the online context comprises a URL (webpage inherently has a URL).

As concerns claim 103, the online context on which a users are presently focused (Cohen: col. 1, lines 25-30-people awareness, other users currently online, document awareness-viewing same online place; col. 1, lines 35-40-keep track of users at particular webpage).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Trovato et al. '012 with an online context being a website currently accessed, as taught by Cohen et al. '926, in order to enable users to communicate and interact about online web-based content they are currently visiting. Such a modification is a combination of known elements.

As further concerns claim 99 and claim 107:

Trovato et al. '012 as modified do not explicitly disclose a contact list.

Baker '098 disclose a contact list (fig. 2-Friends; Fig. 7-Family list).

As concerns claim 104, identifying group of users sharing context and the at least one trait (Baker: fig. 3) and identifying users who enter and leave (Baker: fig. 3; col. 4, lines 55-60-page and display logged in to chat).

As concerns claim 105, an instant message (Baker :chat).

As concerns claim 106, presentation to the user of the number of users (Baker: fig. 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the system of Trovato et al. '012 as modified, with a list of contacts, as taught by Baker '098, in order to organize and easily communicate with friends and family, since they may

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be the users that are more readily communicated with. Such a modification is well known in the messaging art, and is a combination of known elements yielding predictable results.

6. Claims 2, 5-21, 38-44, 60-63, 65-69, 71-77, 81-83, 87, 88, 99, 100, 102-112, 114 and 115 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,401,098 to Baker in view of U.S. Patent No. 7,035,926 to Cohen et al.

Baker '098 disclose:

As concerns claims 60, 77, 81, 99, 108 and 109 determining an online context/files requested of a user (col. 8, lines 46-48; col. 9, lines 15-20); determining an online context/files requested of the other users (col. 8, lines 46-48); storing trait information for the user (col. 3, line 63-col. 4, line 12); storing trait information for the other users (col. 3, line 63-col. 4, line 12); comparing the online context of the user to the online context of the other users and the stored trait information for the user to the stored trait information for the other users (fig. 3; col. 7, lines 2-12); based on the comparison, identifying a group of the other users sharing the online context (fig. 3) of the user and at least one trait with the user (fig. 3), the number of users in the group of the other users being less than the number of the other users (col. 4, lines 25-30); and causing presentation to the user of an indicator that identifies at least one user as a member of the group of the other users sharing the online context of the user and the at least one trait with the user (fig. 3; col. 4, lines 55-60-page and display logged in to chat).

As further concerns claim 99, a contact list (fig. 2-friends button; fig. 7-family list).

As concerns claims 6 and 103, determining where the user is presently focused (col. 8, lines 46-48-chat room by topic).

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As concerns claims 7 and 104, identifying group of users sharing context and the at least one trait (fig. 3) and identifying users who enter and leave (fig. 3; col. 4, lines 55-60-page and display logged in to chat).

As concerns claims 8 and 61, an age of the users (fig. 3; 124).

As concerns claims 9 and 62, a demographic (122).

As concerns claims 10, 68 and 82, an expertise rating (fig. 3,120; fig. 2, IQ).

As concerns claims 11, 66 and 114, an interest (fig. 2, party).

As concerns claims 12, 13 and 14, a participation status comprises a visibility preference (fig. 2, status).

As concerns claims 15 and 67, trait information of an associate (fig. 3, trait info of "friends/buddys").

As concerns claims 16 and 17, an online status (fig. 2, status) of active ("I'm available").

As concerns claim 18, storing other information (col. 12, lines 5-15).

As concerns claim 19, identification of a user (fig. 3, name, 118).

As concerns claim 20, online identifier (fig. 3, name, 118).

As concerns claim 21, contact information (online id can be used to contact user; also associated with an email address for notifications).

As concerns claims 38, 39 and 105, an instant message (chat).

As concerns claim 40, send an email (fig. 5, 262).

As concerns claim 41, a voice communication (col. 14, line 29; fig. 8).

As concerns claim 42, a mobile device (fig. 8).

As concerns claims 43 and 107, a contact list (fig. 2, 118; fig. 2, friends button under area 104).

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As concerns claim 44, a buddy list (fig. 2, 118; fig. 2, friends button under area 104).

As concerns claims 63, 83 and 106, presentation to the user of the number of users (fig. 3).

As concerns claims 65, trait information (fig. 3).

As concerns claims 69 and 87, presentation graphically (fig. 3).

As concerns claim 71, sorted by trait information (col. 11, lines 5-10-compatible based on trait info; col. 11, lines 25-35).

As concerns claims 72, 73 and 115, a location (fig. 3; 126).

As concerns claims 74 and 75, repeating the method (col. 10, line 30-update info, therefore repeatable; col. 11, line 16).

As concerns claim 76, a changed online context (col. 10, line 30-update info; col. 11, line 16).

As concerns claim 88, a subgroup (grouped based on additional traits; col. 12, lines 10-15).

Baker '098 do not explicitly disclose the online context being one or more of a website currently accessed by the user, an Internet domain currently accessed by the user, a newsgroup currently accessed by the user or a URL currently accessed by the user.

Cohen et al. '926 teach determining an online context being a website currently accessed (col. 1, lines 25-30-people awareness, other users currently online, document awareness-viewing same online place; col. 1, lines 35-40-keep track of users at particular webpage).

As concerns claims 2 and 100, the online context comprises an Internet domain (webpage inherently has a domain).

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As concerns claims 5, 102, 110-112, the online context comprises a URL (webpage inherently has a URL).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Baker '098 with an online context being a website currently accessed, as taught by Cohen et al. '926, in order to enable users to communicate and interact about online web-based content they are currently visiting. As concerns claims 2 and 100, the online context comprises an Internet domain (webpage inherently has a domain).

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,425,012 to Trovato et al. and of U.S. Patent No. 7,035,926 to Cohen et al. as applied above in view of U.S. Patent No. 6,594,673 to Smith et al.

Trovato et al. '012 as modified does not disclose wherein the online context being a newsgroup currently accessed by the user. Trovato et al. '012 does teach displaying the current TV or radio, or media (col. 2, lines 5-15; col. 3, lines 25-38; col. 6, lines 35-40). This falls within the scope of applicant's invention of an online context as disclosed at page 7, lines 25-30 of applicant's specification wherein the online context can include a television channel.

Smith et al. '673 teach monitoring a currently accessed newsgroup (col. 2, lines 10-55; relationships between collaborative information).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Trovato et al. '012 as modified with the online context being a newsgroup currently accessed, as taught by Smith et al. '673, in order to enable users to communicate and interact about specific online media content they are currently visiting. Such a modification is a combination of known elements yielding predictable results.

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8. Claims 101 and 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,425,012 to Trovato et al. and U.S. Patent No. 7,035,926 to Cohen et al. and U.S. Patent No. 7,401,098 to Baker as applied above in further in view of U.S. Patent No. 6,594,673 to Smith et al.

Trovato et al. '012 as modified does not disclose wherein the online context being a newsgroup currently accessed by the user. Trovato et al. '012 does teach displaying the current TV or radio, or media (col. 2, lines 5-15; col. 3, lines 25-38; col. 6, lines 35-40). This falls within the scope of applicant's invention of an online context as disclosed at page 7, lines 25-30 of applicant's specification wherein the online context can include a television channel.

Smith et al. '673 teach monitoring a currently accessed newsgroup (col. 2, lines 10-55; relationships between collaborative information).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Trovato et al. '012 as modified with the online context being a newsgroup currently accessed, as taught by Smith et al. '673, in order to enable users to communicate and interact about specific online media content they are currently visiting. Such a modification is a combination of known elements yielding predictable results.

9. Claims 3, 101 and 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,401,098 to Baker and of U.S. Patent No. 7,035,926 to Cohen et al. as applied above in view of U.S. Patent No. 6,594,673 to Smith et al.

Baker '098 as modified does not explicitly disclose a newsgroup.

Smith et al. '673 teach monitoring a currently accessed newsgroup (col. 2, lines 10-55; relationships between collaborative information).

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It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of as modified with the online context being a newsgroup currently accessed, as taught by Smith et al. '673, in order to enable users to communicate and interact about specific online media content they are currently visiting. Such a modification is a combination of known elements yielding predictable results.

10. Claims 78-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,425,012 to Trovato et al. and of U.S. Patent No. 7,035,926 to Cohen et al. as applied above in view of U.S. Patent Application Publication 2002/0059526 to Dillon et al.

Trovato et al. '012 as modified do not explicitly disclose the conditions for the users store.

As concerns claim 78, the store is migrated based on activity level (abstract-stored for use at a later time when user desires on storage media 90).

As concerns claim 79, the users store is divided based on activity level (divided between news server and storage media).

As concerns claim 80, the users store is combined with a related users store based on activity level (information stored on news server for users to obtain when desired).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Trovato et al. '012 as modified with storage conditions, as taught by Dillon et al. '526, in order to provide a distributed storage system. Such a modification is a combination of known elements yielding predictable results.

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11. Claims 78-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,401,098 to Baker and of U.S. Patent No. 7,035,926 to Cohen et al. as applied above in view of U.S. Patent Application Publication 2002/0059526 to Dillon et al.

Baker '098 as modified does not explicitly disclose the conditions for the users store.

As concerns claim 78, the store is migrated based on activity level (abstract-stored for use at a later time when user desires on storage media 90).

As concerns claim 79, the users store is divided based on activity level (divided between news server and storage media).

As concerns claim 80, the users store is combined with a related users store based on activity level (information stored on news server for users to obtain when desired).

It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the system of Baker '098 as modified with storage conditions, as taught by Dillon et al. '526, in order to provide a distributed storage system. Such a modification is a combination of known elements yielding predictable results.

Response to Arguments

12. Applicant's arguments with respect to claim 99 have been considered but are moot in view of the new ground(s) of rejection. The applicant's amendment necessitated the new grounds of rejection.

The applicant failed to address the prior art rejections of Baker in view of Cohen et al.; Trovato et al. and Cohen et al. in view of Smith et al.; Baker and Cohen et al. in view of Smith et al.; Trovato et al. and Cohen et al. in view of Dillon et al. and Baker and Cohen et al. in view of Dillon et al. These rejections have been sustained and are cited above.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Thursday from 8:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John B. Walsh/
Primary Examiner, Art Unit 2451